

Embassy of Switzerland in the United States of America

UNITED STATES DISTRICT COUP-DISTRICT OF MANAGE

at 10 o'clock and 25 min I M. SUE BETTA, CLERK

Fax

Date:

Fax number:

Recipient:

13.08.2008

808 541-3579

The Honorable Helen Gillmor

United States District Court

District of Hawaii

300 Ala Moana Blvd., Rm. C338

Honolulu, Hawaii 96850

Number of pages:

2

0108-00136 HG

Your reference: Your reference: 454.0-FCH/SEV

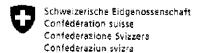
Dear Sir or Madam:

Enclosed you find the letter to the Honorable Judge Gillmor.

Sincerely,

1. Audoi

2900 Cathedral Ave. NW Washington, D.C. 20008-3499 Phone: (202) 745 7900, Fax: (202) 387 2564 was.vertretung @eda.admin.ch, www.swissemb.org



Embassy of Switzerland in the United States of

The Honorable Helen Gillmor United States District Court District of Hawaii 300 Ala Moana Blvd., Rm. C338 Honolulu, Hawaii 95850

Your reference: 454,0-FCH/SEV

Washington, D.C., August 13, 2008

Dear Judge Gillmor:

I refer to the attempted service of a civil matter (case number: 08-00136HG) on the European Organization for Nuclear Research (CERN) in Geneva.

In this case, the court documents in the English language were delivered to CERN by Mr. Marco Breitenmoser, a Geneva-based bailiff. CERN justifiably disputes the method of the delivery since the bailiff deposited the court documents against CERN's will although CERN had already pointed out that the delivery and therefore also the service were inadmissible.

In fact, the delivery of official court documents to an intergovernmental organization through a bailiff, an attorney or the court itself violates international law and, in particular, the Agreement between Switzerland and the European Organization for Nuclear Research Concerning the Legal Status of the European Organization for Nuclear Research in Switzerland, which sets down the inviolability of the buildings of the Organization and the immunity from legal process.

According to the Swiss legal interpretation, the service of court documents from Swiss and foreign authorities on an intergovernmental organization with headquarters in Switzerland with which Switzerland has concluded a headquarters agreement must be done by diplomatic channels. Since CERN is such an intergovernmental organization with a special status with certain inviolable rights, the court documents to be served must be delivered by the United States Embassy in Bern to the Swiss Federal Department of Foreign Affairs (FDFA), which would carry out the service on CERN via our Mission in Geneva.

Therefore the documents were not delivered properly and thus their service was not executed. I request that the service of the court documents concerned on CERN be done validly through the diplomatic channels described above.

Sincerely,

The Charge d'Affaires a.i. of Switzerland

Alexander Wittwer

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